

MARICOPA COUNTY AIR QUALITY DEPARTMENT

IN THE MATTER OF:

Fisher Sand & Gravel
1302 West Drivers Way
Tempe, Arizona 85284

ORDER OF ABATEMENT

NO. 2007-003

Defendant.

The Control Officer has reasonable cause to believe, and finds that Fisher Sand & Gravel ("Fisher") is in violation of Permit Condition 28 of the Air Quality Permit issued to Fisher Sand & Gravel on January 23, 2007:

1. Fisher failed to conduct a performance test on the asphalt dryer baghouse and submit the performance test results within 180-days of the issuance date of the permit as required by Permit Condition 28, set out below. The permit was issued on January 23, 2007, resulting in an initial performance test deadline of March 22, 2007. Fisher requested, and was granted, an extension of time in which to conduct the required performance testing. As stated in Permit Condition 28, "in no case shall the performance testing deadline extend beyond 180-days after issuance of the permit." Fisher's deadline for conducting the required performance test

was July 22, 2007. To date, Fisher has not conducted the required performance testing.

Permit Condition 28: Performance Testing: To demonstrate compliance with the emission limits of Condition 21, the Permittee shall conduct performance testing on the exhaust stack of the asphalt dryer baghouse to determine emission rates for NOx, CO, SO2, TSP, PM10 and VOC within 60-days of the issuance of this permit or upon the startup of the hot mix asphalt plant, whichever occurs later. This performance testing deadline may be extended by the Control Officer for good cause through a written request by the Permittee, but in no case shall the performance testing deadline extend beyond 180-days after the issuance of this permit.

WHEREFORE, pursuant to the authority granted in A.R.S. § 49-511 Fisher Sand & Gravel is ordered:

- A. To submit a performance test protocol within 30-days of the effective date of this Order.
- B. To provide MCAQD with the performance test date at least two weeks prior to the scheduled performance test.
- C. To conduct the performance test at least 30-days but no more than 60-days after submittal of the performance test protocol.
- D. To submit performance test results no later than 30-days following the performance test.

The duration of this Order shall be one year or until the Order is fully complied with, whichever is sooner. This Order is in addition to and shall in no way limit the Control Officer's ability to seek civil penalties for the violations pursuant to A.R.S. § 49-513 or injunctive relief pursuant to A.R.S. § 49-512. Each day the facility listed above operates without complying with Permit Condition 28 is a separate violation, subject to a potential civil penalty of up to \$10,000 per violation per day. Fisher Sand & Gravel is entitled to a hearing before the Hearing Board regarding this Order if the hearing is requested in writing within 30 days after the date of issuance of the Order.

ORDERED this sixth day of November, 2007.

ROBERT KARD
CONTROL OFFICER,
MARICOPA COUNTY
AIR QUALITY DEPARTMENT
